

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 06-0054P
Corporate Income Tax
For the Calendar Year 2004

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; IC 6-8.1-3-17(c); 45 IAC 15-11-2

The taxpayer protests the penalty assessed for failure to file its corporate income tax return and remit the tax due by the appropriate date.

STATEMENT OF FACTS

The taxpayer filed its corporate income tax return for the calendar year 2004 after the due date. The calculated amount of tax due was remitted with the return. Accordingly, the department assessed a penalty for the taxpayer's failure to timely remit its tax. In the letter of protest, the taxpayer requested that the penalty be abated due to reasonable cause.

I. Tax Administration – Penalty

The return in question was due on April 15, 2005. It was filed on November 10, 2005. The taxpayer asserts that the penalty should be waived because the return was filed during the period of the Indiana Tax Amnesty Program. IC 6-8.1-3-17(c) states:

The department shall establish an amnesty program for taxpayers having an unpaid tax liability for a listed tax that was due and payable for a tax period ending before July 1, 2004.

Taxes due for calendar year 2004 were not eligible for inclusion in the Amnesty Program. Hence, reasonable cause has not been established.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

“Negligence” on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer has not established that its failure to timely file the return in question and pay the appropriate tax was due to reasonable cause and not due to negligence.

FINDING

The taxpayer's protest is denied.